



## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### Agency Information Collection Activities: Information Collection Revision; Comment Request; Regulation E – Electronic Fund Transfer Act; Prepaid Account Provisions

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). An agency may not conduct or sponsor, and respondents are not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled “Regulation E – Electronic Fund Transfer Act; Prepaid Card Provisions.”

**DATES:** Comments must be submitted on or before [INSERT 60 DAYS FROM DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

**ADDRESSES:** Commenters are encouraged to submit comments by e-mail, if possible.

You may submit comments by any of the following methods:

- *E-mail:* [prainfo@occ.treas.gov](mailto:prainfo@occ.treas.gov).
- *Mail:* Chief Counsel’s Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557-0346, 400 7<sup>th</sup> Street, SW., suite 3E-218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7<sup>th</sup> Street, SW., suite 3E-218, Washington, DC 20219.
- *Fax:* (571) 465-4326.

Instructions: You must include “OCC” as the agency name and “1557-0346” in your comment. In general, the OCC will publish comments on [www.reginfo.gov](http://www.reginfo.gov) without change, including any business or personal information provided, such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Following the close of this notice’s 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet.

- Viewing Comments Electronically: Go to [www.reginfo.gov](http://www.reginfo.gov). Hover over the “Information Collection Review” drop down menu and click on “Information Collection Review.” From the “Currently under Review” drop-down menu, select “Department of Treasury” and then click “submit.” This information collection can be located by searching by OMB control number “1557-0346” or “Regulation E – Electronic Fund Transfer Act; Prepaid Card Provisions.” Upon finding the appropriate information collection, click on the related “ICR Reference Number.” On the next screen, select “View Supporting Statement and Other Documents” and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating [www.reginfo.gov](http://www.reginfo.gov), please contact the Regulatory Information Service Center at (202) 482-7340.

**FOR FURTHER INFORMATION CONTACT:** Shaquita Merritt, OCC Clearance Officer, (202) 649-5490, Chief Counsel’s Office, Office of the Comptroller of the

Currency, 400 7<sup>th</sup> Street, SW., Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or disclose information to a third party. Section 3506(c)(2)(A) of title 44 requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing this notice.

*Title:* Regulation E – Electronic Fund Transfer Act; Prepaid Account Provisions.

*OMB Control Nos.:* 1557-0346.

*Type of Review:* Regular review.

*Description:* The Electronic Fund Transfer Act (EFTA)<sup>1</sup> and Regulation E<sup>2</sup> require disclosure of basic terms, costs, and rights relating to electronic fund transfer services debiting or crediting a consumer’s account.

The prepaid accounts final rules issued by the Consumer Financial Protection Bureau (CFPB)<sup>3</sup> require financial institutions to make available to consumers disclosures before a consumer acquires a prepaid account. This notice outlines the requirements of

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<sup>1</sup> 15 U.S.C. 1693 *et seq.*

<sup>2</sup> 12 CFR part 1005.

<sup>3</sup> 81 FR 83934 (November 22, 2016), 82 FR 18975 (April 25, 2017), and 83 FR 6364 (February 13, 2018).

the 2016 rule as amended by the 2017 and 2018 rules. The remainder of Regulation E is approved under OMB Control No. 1557-0176.

Under 12 CFR 1005.18(b), a financial institution is required to make available a short form and a long form disclosure before the consumer acquires a prepaid account, subject to certain exceptions. Section 1005.18(f)(3) generally requires that certain disclosures, including the name of the financial institution and the URL of its website, and a telephone number the consumer may use to contact the financial institution about the prepaid account, be made on the actual prepaid account access device.

Financial institutions offering prepaid accounts that qualify for the retail location exception in § 1005.18(b)(1)(ii) may meet the requirement of providing the long form disclosure after acquisition by allowing the long form disclosure to be delivered electronically, without receiving consumer consent under the E-Sign Act,<sup>4</sup> if the disclosure is not provided inside the prepaid account packaging material and the financial institution is not otherwise mailing or delivering to the consumer written account-related communications within 30 days of obtaining the consumer's contact information. If a financial institution provides pre-acquisition disclosures in writing and a consumer subsequently completes the acquisition process online or by telephone, the financial institution is not required to provide the disclosures again either electronically or orally.

Section 1005.18(b)(9)(i) includes a requirement that a financial institution provide pre-acquisition disclosures in a foreign language if the financial institution provides a means for the consumer to acquire a prepaid account by telephone or electronically principally in that foreign language. That requirement is not applicable to payroll card accounts and government benefit accounts where the foreign language is offered by telephone only via a real-time language interpretation service provided by a third party or

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<sup>4</sup> Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 *et seq.*).

directly by an employer or government agency on an informal or ad hoc basis as an accommodation to prospective payroll card account or government benefit account recipients.

Under §1005.18(c)(1), a financial institution need not furnish periodic statements to the consumer if the provider uses the alternative method of compliance. Under this alternative method, the periodic statements must include: (1) the consumer's account balance, through a readily available phone number; (2) the means by which the consumer can obtain an electronic account history, such as the address of a website; and (3) a written history of the consumer's account transactions that is provided promptly in response to an oral or written request and that covers at least 24 months preceding the date the financial institution receives the consumer's request. Section 1005.18(c)(5) requires that financial institutions disclose to consumers a summary total of the amount of all fees assessed against the consumer's prepaid account for both the prior month as well as the calendar year to date. This information must be disclosed on any periodic statement and any history of account transactions provided or made available by the financial institution.

For prepaid accounts that are not payroll card accounts or government benefit accounts, a financial institution is not required to comply with the liability limits and error resolution requirements of Regulation E for any prepaid account for which it has not successfully completed its consumer identification and verification process, provided certain disclosures are given. With regard to accounts where the consumer's identity is later verified, financial institutions must limit the consumer's liability for unauthorized transfers and resolve errors that occur following verification in accordance with relevant Reg. E provisions. For accounts in programs where there is no verification process, financial institutions must either explain in their initial disclosures their error resolution process and limitations on consumers' liability for unauthorized transfers, or explain that

there are no such protections, and that such financial institutions comply with the process (if any) that they disclose.<sup>5</sup>

Pursuant to § 1005.18(h)(1), except as provided in § 1005.18(h)(2) and (3), the effective date for the prepaid accounts rules is April 1, 2019. If, as a result of § 1005.18(h)(1), a financial institution changes the terms and conditions of a prepaid account, such that a change-in-terms notice would have been required under § 1005.8(a) or § 1005.18(f)(2) for existing customers, the financial institution must notify consumers with accounts acquired before April 1, 2019 at least 21 days in advance of the change becoming effective, provided the financial institution has the consumer's contact information. If the financial institution obtains the consumer's contact information fewer than 30 days in advance of the change becoming effective or after it has become effective, the financial institution is permitted instead to provide notice of the change within 30 days of obtaining the consumer's contact information.

If a financial institution has not obtained a consumer's consent to provide disclosures in electronic form pursuant to the E-Sign Act, or is not otherwise already mailing or delivering to the consumer written account-related communications, the financial institution may provide to the consumer a notice of a change in terms and conditions or required or voluntary updated initial disclosures under Reg. E taking effect in electronic form without regard to the consumer notice and consent requirements of the E-Sign Act.

Section 1005.18(h)(2)(ii) requires that financial institutions notify any consumer who acquires a prepaid account after the effective date specified in packaging produced prior to the effective date of any changes as a result of § 1005.18(h)(1) taking effect that would have caused a change-in-terms notice to be required under § 1005.8(a) or § 1005.18(f)(2) for existing customers within 30 days of acquiring the customer's contact

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<sup>5</sup> 12 CFR 1005.18(e)(3)(ii)(C).

information. In addition, financial institutions must mail or deliver updated initial disclosures pursuant to §§ 1005.7 and 1005.18(f)(1) within 30 days of obtaining the consumer's contact information. Those financial institutions that are affected should not incur significant costs associated with notifying consumers and providing updated initial disclosures. Consumers who have consented to electronic communication may receive the notices and updated disclosures electronically, at a minimal cost to financial institutions. A financial institution that has not obtained the consumer's contact information is not required to comply with the requirements set forth in § 1005.18(h)(2)(ii) or (iii).

Section 1005.19(b) requires certain issuers to submit to the CFPB, on a rolling basis, prepaid account agreements (including fee schedules) that are offered, amended, or withdrawn. Prepaid account issuers are permitted to delay submitting a change in the list of names of other relevant parties to a particular prepaid account agreement until the earlier of such time as the issuer is otherwise submitting an amended agreement or changes to other identifying information about the issuer and its submitted agreements to the CFPB or May 1 of each year (for updates between the last submission and April 1 of that year). Changes in agreement provisions or fee information may be integrated into the text of the agreement or provided through fee addenda.

*Affected Public:* Businesses or other for-profit.

*Burden Estimates:*

*Estimated Number of Respondents:* 1,106.

*Estimated Annual Burden:* 6,605 hours.

*Frequency of Response:* On occasion.

*Comments:* Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

- (a) Whether the collections of information are necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;
- (b) The accuracy of the OCC's estimates of the information collection burden;
- (c) Ways to enhance the quality, utility, and clarity of the information to be collected;
- (d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- (e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

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